

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:) In Proceedings
) Under Chapter 13
Patrick R. Bennington)
Debtor(s).) Case No.17-26638
) Honorable Judge LaShonda A Hunt

NOTICE OF MOTION

To: David M Siegel, David M. Siegel & Associates, 790 Chaddick Drive, Wheeling, IL 60090,
david siegelbk@gmail.com via electronic notification;

Glenn B Stearns, 801 Warrenville Road Suite 650, Lisle, IL 60532, via electronic notification;

Patrick S Layng, 219 S Dearborn St, Room 873, Chicago, IL 60604, via electronic notification;

Patrick R. Bennington Debtor, 2920 Oak Rail Dr., New Lenox, IL 60451 via US Mail.

PLEASE TAKE NOTICE that on July 10, 2020 at 10:15 A.M., I will appear before the Honorable LaShonda A Hunt, or any judge sitting in that judge's place, and present the motion of Capital One Auto Finance, a division of Capital One, N.A. for Relief from the Automatic Stay, a copy of which is attached.

This motion will be presented and heard telephonically. No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must set up and use an account with Court Solutions, LLC. You can set up an account at www.Court-Solutions.com or by calling Court Solutions at (917) 746-7476.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

Capital One Auto Finance, a division of Capital One, N.A.

By: Jennifer Rinn
Rinn Richman Law
P.O. Box 465
Chicago, IL 60690
Phone: (586) 899-5086

CERTIFICATE OF SERVICE

I, the undersigned attorney, certify that I personally served the above and foregoing notice and motion on the above parties by Electronic Court Notification or by depositing the same postage prepaid, in the U.S. Mail on June 29, 2020.

Respectfully submitted,
Rinn Richman Law

/s/ Gloria Yeager

Gloria Yeager

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MOTION FOR RELIEF FROM STAY

NOW COMES Capital One Auto Finance, a division of Capital One, N.A., by and through its undersigned attorney, and as for its Motion for Relief from Stay, states as follows:

1. Capital One Auto Finance, a division of Capital One, N.A. is a creditor of the Debtor and is seeking relief pursuant to 11 U.S.C. § 362.
2. On February 13, 2014, Debtor Patrick R. Bennington executed a Motor Vehicle Retail Installment Sales Contract for an interest in one, 2014 CHEVROLET Impala Sedan 4D LT V6, VIN 2G1125S33E9199778 ("Contract"). A true and correct copy of the Contract is attached hereto as Exhibit "A".
3. Capital One Auto Finance, a division of Capital One, N.A. has a properly perfected interest in the Collateral, and said lien was noted upon the Certificate of Title in connection with the aforesaid motor vehicle. A true and correct copy of the Certificate of Title is attached hereto as Exhibit "B".
4. On September 06, 2017, the Debtor filed a voluntary petition under Chapter 13 of Title 11 of the United States Bankruptcy Code.
5. As of June 21, 2020, the total debt owed to Capital One Auto Finance, a division of Capital One, N.A. was \$4,393.44. Movant alleges the value of said motor vehicle is approximately \$11,200.00 pursuant to a N.A.D.A. Valuation attached hereto as Exhibit "C".
6. Debtor is in default in the post-petition amount of \$899.68. There is no pre-petition arrearage. The last payment was received on June 19, 2020. A copy of the payment history is attached as Exhibit "D".

7. This motor vehicle is not necessary for the Debtor's effective reorganization.
8. Debtor has not tendered proof of insurance to Movant.
9. Capital One Auto Finance, a division of Capital One, N.A.'s collateral is a rapidly depreciating asset.
10. Movant's collateral is rapidly depreciating, and therefore should be allowed to immediately enforce and implement any Order Modifying the Automatic Stay that this Honorable Court may enter, notwithstanding Federal Bankruptcy Rule 400l(a)(3).

WHEREFORE, Capital One Auto Finance, a division of Capital One, N.A. prays this Honorable Court for the entry of an order modifying the automatic stay pursuant to 11 U.S.C. § 362 so as to allow Capital One Auto Finance, a division of Capital One, N.A. to take possession of one 2014 CHEVROLET Impala Sedan 4D LT V6, VIN 2G1125S33E9199778, and to enforce its rights against the security in accordance with the agreement and/or applicable state laws and to find that Federal Rule 400l(a)(3) of the Federal Rules of Bankruptcy Procedure is waived and thus Capital One Auto Finance, a division of Capital One, N.A. may immediately enforce and implement the Order Modifying the Automatic Stay and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Jennifer Rinn

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